

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PAUL RAMOS,

Plaintiff,

vs.

**5:22-CV-765
(MAD/ML)**

**ONONDAGA COUNTY DISTRICT ATTORNEY'S
OFFICE,**

Defendant.

APPEARANCES:

PAUL RAMOS

11001750

Onondaga County Justice Center

555 South State Street

Syracuse, New York 13202

Plaintiff, *Pro Se*

OF COUNSEL:

Mae A. D'Agostino, U.S. District Judge:

ORDER

On July 21, 2022, Plaintiff Paul Ramos ("Plaintiff") filed a complaint with a jury demand, *see* Dkt. No. 1, and a motion for leave to proceed *in forma pauperis* ("IFP"). *See* Dkt. No. 2. On July 28, 2022, Plaintiff filed a supplement to the complaint. *See* Dkt. No. 4. On October 25, 2022, Magistrate Judge Miroslav Lovric issued an Order and Report-Recommendation denying Plaintiff's request to proceed IFP and recommending that the complaint be dismissed without prejudice but without leave to replead pursuant to 28 U.S.C. § 1915(e)(2)(B) and 28 U.S.C. § 1915A(a). *See* Dkt. No. 5. On December 2, 2022, Plaintiff filed a motion for leave to proceed IFP. *See* Dkt. No. 6.

When a party declines to file objections to a magistrate judge's report-recommendation or files "[g]eneral or conclusory objections or objections which merely recite the same arguments [presented] to the magistrate judge," the district court reviews those recommendations for clear error. *O'Diah v. Mawhir*, No. 9:08-CV-322, 2011 WL 933846, *1 (N.D.N.Y. Mar. 16, 2011) (citations and footnote omitted); *see also McAllan v. Von Essen*, 517 F. Supp. 2d 672, 679 (S.D.N.Y. 2007). After the appropriate review, "the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

"[I]n a *pro se* case, the court must view the submissions by a more lenient standard than that accorded to 'formal pleadings drafted by lawyers.'" *Govan v. Campbell*, 289 F. Supp. 2d 289, 295 (N.D.N.Y. 2007) (quoting *Haines v. Kerner*, 404 U.S. 519, 520 (1972)) (other citations omitted). The Second Circuit has held that the court is obligated to "'make reasonable allowances to protect *pro se* litigants'" from inadvertently forfeiting legal rights merely because they lack a legal education. *Govan*, 289 F. Supp. 2d at 295 (quoting *Taguth v. Zuck*, 710 F.2d 90, 95 (2d Cir. 1983)).

The Court discerns no clear error in Magistrate Judge Lovric's Order and Report-Recommendation. Magistrate Judge Lovric correctly found that Eleventh Amendment sovereign immunity bars claims against the District Attorney's office. *See Cass v. U.S. Dist. Ct., E. Dist. of New York*, No. 20-CV-6071, 2021 WL 1124540, *5 (E.D.N.Y. Mar. 24, 2021). Any attempt to amend the claim against Defendant would be futile for that reason. *See Ruffolo v. Oppenheimer & Co.*, 987 F.2d 129, 131 (2d Cir. 1993) ("Where it appears that granting leave to amend is unlikely to be productive, ... it is not an abuse of discretion to deny leave to amend").

Additionally, Magistrate Judge Lovric's denial of leave to proceed IFP was properly denied for failure to provide a statement of assets. *See* 28 U.S.C. § 1915(a)(1); Dkt. No. 2.

After carefully reviewing the Order and Report-Recommendation, the entire record in this matter, and the applicable law, the Court hereby

ORDERS that the Order and Report-Recommendation (Dkt. No. 5) is **ADOPTED in its entirety**; and the Court further

ORDERS that Plaintiff's complaint (Dkt. No. 1) is **DISMISSED without leave to amend**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in Defendant's favor and close this case; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: May 1, 2023
Albany, New York



Mae A. D'Agostino
U.S. District Judge